

**Article 4: Public Hazards and Public Nuisances**

**Division 2: Weed, Rubbish and Waste Abatement**

*("Weed and Rubbish Abatement Program"*

*added 1-28-1980 by O-15174 N.S.)*

*(Retitled to "Weed, Rubbish and Waste Abatement"*

*on 8-10-1993 by O-17957 N.S.)*

**§54.0201 Declaration of Purpose**

The Council of the City of San Diego finds and declares that:

- (a) The City has a history and reputation for well-kept properties, and that the property values and the general welfare of this community are founded, in part, upon the appearance and maintenance of properties. Every person has the duty to maintain real property which is under his or her control free from weeds, rubbish and other forms of waste.
- (b) There continues to be a need for further emphasis on the maintenance of public and private property in a clean, waste free condition because numerous locations throughout the City have become sites for the collection of waste and illegal dumping.
- (c) The existence of such conditions is injurious to the public health, safety and welfare. The increased presence of litter and other forms of waste requires expenditures to protect against hazards and diminution of property values, prevent crime and preserve the public health, safety and welfare.
- (d) Unless corrective measures are taken to alleviate the existing conditions and particularly to avoid future problems in this regard, the public health, safety and general welfare and specifically the property values and social and economic standards of this community will be depreciated.
- (e) The Council further declares that its purpose in enacting the provisions in this Division is to establish procedures as authorized in Government Code Sections 39501 and 39502 to administratively abate public nuisances caused by the accumulation of weeds or waste on real property and adjacent to sidewalks and public rights-of-way throughout the City of San Diego.
- (f) The Council further declares that all weeds, waste or other obstructions found upon or in front of streets, sidewalks, and private property within the City of

San Diego are public nuisances that adversely affect the public health, safety, and general welfare.

*(Amended (portions previously contained in former Sec. 44.0115) and retitled 8-10-1993 by O-17957 N.S.)*

## **§54.0202 Definitions**

The words and phrases used in this Division have the meanings set forth in this section:

"Liquid Waste" includes oil, other petroleum products, paint, chemicals and hazardous Waste or materials.

"Litter" means small quantities of Waste matter carried on or about the person including, but not limited to, beverage containers and closures, packaging wrappers, wastepaper, newspapers, magazines, or the contents of the containers, closures or wrappers.

"Littering" means the act of discarding, dropping, scattering, or disposing of Litter in a location or container which is not used for the proper disposal of Waste.

"Parking Strip" means the portion of Property between a public street and private Property.

"Plant Growth" means any flora, vegetation or herbage.

"Premises" means any real property, or improvements thereon, including that portion of any lot abutting a public street over which the City has an easement for right-of-way or utility service.

"Public Property" is any Property interest owned by, or otherwise granted to, the City of San Diego.

"Recyclable Waste Material" has the same meaning as set forth in Section 66.0102 of this Code.

"Refuse" has the same meaning as set forth in Section 66.0127 of this Code.

"Rubbish" means non-functional, nonusable or abandoned material or matter. Rubbish includes ashes, paper, cardboard, tin cans, dirt, cut brush, yard and garden clippings or trimmings, wood, glass, bedding, cloth, clothing, crockery,

plastic, rubber by-products, litter, machinery, vehicle parts, junk and other similar items.

"Solid Waste" means refuse, Rubbish, broken concrete or asphalt, piles of rock, dirt and other noncombustible materials, and earth fill material not otherwise authorized by permit or ordinance for land development.

"Waste" means material of any nature that constitutes Rubbish, Solid Waste, Liquid Waste or Medical Waste. Waste also includes abandoned or unidentified personal property that is left unattended on public sidewalks and rights-of-way or other Public Property. Waste does not include compost piles, composting or Recyclable Material properly contained and disposed of in a timely fashion.

"Weeds" means any of the following: (1) weeds which bear seeds of a downy or wingy nature; (2) sagebrush, chaparral and any other brush or weeds which attain such large growth as to become a fire menace when dry; (3) poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health, and weeds that are otherwise noxious or dangerous; or (4) dry grass, stubble, brush, or other flammable material which endangers the public safety by creating a fire hazard.

"Vectors" mean rodents, flies and mosquitos capable of transmitting disease to humans.

*(Amended 11-10-1998 by O-18601 N.S.)*

#### **§54.0203 Enforcement Authority**

The Directors of the Neighborhood Code Compliance Department and Waste Management Department, or any other Director authorized by the City Manager, are authorized to administer and enforce the provisions of this Division. The Directors or their designated Enforcement Officials may exercise any enforcement powers as provided in Division 1, Article 2 of Chapter I of this Code.

*("Enforcement Authority" added (portions previously contained in former Sec. 44.0124(a)) 8-10-1993 by O-17957 N.S.)*

#### **§54.0204 Enforcement Remedies**

Violations of this Division may be prosecuted as misdemeanors subject to the fines and custody provided in Municipal Code Section 12.0201, unless the specific section of this Code expressly limits enforcement as an infraction. The Directors may also seek injunctive relief and civil penalties in the Superior Court pursuant to Municipal Code

Section 12.0202 or pursue any administrative remedy provided in Chapter I of this Code.

*("Enforcement Remedies" added 8-10-1993 by O-17957 N.S.)*

**§54.0205 Strict Liability Offenses**

Violations of this Article shall be treated as strict liability offenses regardless of intent.

*("Strict Liability Offenses" added 8-10-1993 by O-17957 N.S.)*

**§54.0206 Administrative Abatement Procedure**

- (a) The Director may use the administrative abatement procedures for Time Frame One as outlined in Municipal Code Section 12.0604, whenever the Director determines that a public nuisance exists on any portion of private or Public Property caused by an accumulation of Weeds, Rubbish or Waste. The Director can require the removal of the Weeds, Rubbish, Waste or other obstructions from sidewalks, Parking Strips, streets and other public rights-of-way.
- (b) As part of the Abatement Notice issued pursuant to Section 12.0604 of this Code, the Director may declare that Weeds on specified parcels of property are seasonal and recurrent public nuisances. No further Appeal Hearings are necessary upon the second or any subsequent occurrence of Weeds on the same parcel within the same calendar year. This limitation on Appeal Hearings shall be expressed in any Abatement Notice where the Director seeks to declare the nuisance caused by Weeds to be seasonal and recurrent.
- (c) The Director may use chemical controls to abate seasonal and recurrent nuisances caused by Weeds as provided for in California Government Code Section 39562.2.

*("Administrative Abatement Procedure" added 8-10-1993 by O-17957 N.S.)*

**§54.0207 Abatement Lien**

The costs of removal and abatement of the public nuisance may be assessed against the abutting or adjacent property owner and may become a lien as authorized in Government Code Section 39502. The Director shall follow the procedures in Division 3, Article 3 of Chapter 1 of this Code for assessment, execution and collection of the lien. Enforcement of the lien may include sale of the Property.

*("Abatement Lien" added 8-10-1993 by O-17957 N.S.)*

**§54.0208 Property Maintenance**

- (a) It is unlawful for any Responsible Person to fail to maintain real property and appurtenances under his or her control free from Waste.
- (b) It is unlawful for a Responsible Person whose Premises abut any portion of a public street or Parking Strip to fail to maintain any public walkway thereon in a condition free from Waste, Weeds and other Plant Growth.
- (c) The Director may require a Responsible Person to erect fences, barriers, berms or other suitable means to discourage access to the Premises for Littering or illegal dumping. This may include the posting of signs that prohibit Littering and illegal dumping.
- (d) The Director may collect or abate Waste from small business enterprises that abut Public Property under the following circumstances:
  - (1) at the request of the affected property owner if the Director determines that reasonable efforts were made to comply with subsection (a), (b) or (c) listed above; or
  - (2) when public health or safety requires such measures.
- (e) The Director is authorized to assess costs against affected property owners for the abatement services performed by the City or its agent pursuant to Section 54.0208(d).

*(Renumbered from Sec. 44.0119, amended and retitled 8-10-1993 by O-17957 N.S.)*

**§54.0209 Illegal Dumping Prohibited**

- (a) It is unlawful to deposit, dump or cause to be deposited or dumped any Waste in the following places:
  - (1) upon any public or private highway or road, including any portion of the right-of-way;
  - (2) upon any private Property into or upon which the public is admitted by easement or license;
  - (3) upon any private Property without the consent of the owner; or

- (4) upon any public park or other Public Property without the consent of the state or local agency having jurisdiction over the Property.
- (b) Each day that Waste placed, deposited, or dumped in violation of this Section remains shall be a separate violation.
- (c) The court may require a person convicted under this section, as a condition of probation, to remove or pay the cost of removing all Waste which the convicted person dumped or caused to be dumped upon private or Public Property.

*(Renumbered from Sec. 44.0117 and amended 8-10-1993 by O-17957 N.S.)*

#### **§54.0210 Littering Prohibited**

It is unlawful to litter or cause Littering in or upon any private or Public Property. Any person violating the provisions of this Section is guilty of an infraction.

*(Renumbered from Sec. 44.0118 and amended 8-10-1993 by O-17957 N.S.)*

#### **§54.0211 Transporting Uncovered Waste Prohibited**

- (a) Except as provided in Section 54.0211(b), it is unlawful to drive or move any vehicle loaded with Refuse or Waste on any City street or highway unless the vehicle is totally covered in a manner which will prevent the load or any part of the load from spilling, falling or blowing upon the street or highway.
- (b) Section 54.0211 does not apply to:
  - (1) a Rubbish vehicle in process of acquiring its load;
  - (2) any vehicle engaged in transporting wet waste fruit or vegetable matter, or waste products from a food processing establishment; or
  - (3) any highway maintenance vehicle operated by, or operated under contract with, any local authority or the state, and engaged in transporting snow, mud, earthen slide material, rock, portland cement, or asphaltic concrete paving and structural materials to a dump site for disposal.

*(Renumbered from Sec. 44.0121 and amended 8-10-1993 by O-17957 N.S.)*

**§54.0212 Abandoned Personal Property**

- (a) Any personal property or possessions located on Public Property that are unattended and whose owner cannot be readily identified are presumed to be abandoned and, pursuant to Civil Code Section 2080.7, the provisions of Municipal Code Section 22.0603 do not apply. Wherever possible, Enforcement Officials shall make a reasonable effort to ascertain whether the unattended personal property or possessions have been abandoned and, if so, to thereafter cause their removal.
- (b) Unattended personal property or possessions that are unsanitary, soiled or verminous may be summarily abated and destroyed. Unattended personal property or possessions that are recyclable may be disposed of by the Director pursuant to Chapter 6, Article 6 of the Code. Unattended personal property or possessions that are sanitary and saleable or useable and of a value greater than ten (\$10) dollars shall be stored in an interim facility, if available, for at least 96 hours before they are transferred to the Chief of Police pursuant to Section 22.0603 of this Code.

*(“Abandoned Personal Property” added 8-10-1993 by O-17957 N.S.)*

